

United States District Court
Northern District of New York

Gary Gillard

- against -

Michael Rovelli

Frank Flores

S. Shattuck

H. Foster

M. Rock

Jane Doe

Alfred Aubin and

Curtis Poirier

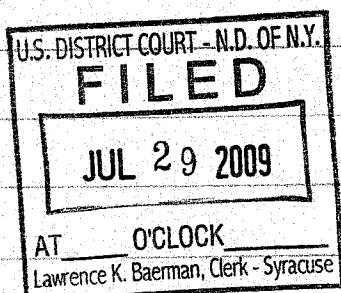
Correctional officer sued in their
Individual and official capacities

Eric Perez 08-B-1176

Inmate sued in his Individual capacity

Verified Complaint
Jury Trial Demanded
Three Judge Court
Class Action

42 U.S.C. 1983, 1983 and
1986 Civil Complaint.



9:09-cv-860

Nicholas DeLuca

Colin Fraser

Michael Hoy

Nabozny

Correctional Sergeant sued in their
Individual and official capacities

K. H. Smith
Peter Besson
are Lieutenants sued in their
Individual and official Capacities

C. F. Kelly
is Deputy of Security sued in his
Individual and official Capacities

P. Heath
is First Deputy Superintendent
sued in his Individual and
official Capacities

David Rock
Superintendent sued in his
Individual and official capacities

Nurse Terry, Fisher Nesmith,
David Lindenmann, J. Ieos,
Roberta Labrum,
Howard Silverberg,
Doctor Carandy,
Janet Collins,
are medical staff sued in their
Individual and official Capacities

Brian McCallister
Counselor sued in his
Individual and official capacities

Richard Roy
Hollin
Inspector General staff sued in their
Individual and official capacities

Brian Fischer
Commissioner, sued in his
Individual and official capacities

New York State Department of Correctional
Services; sued in its official and
Individual capacities

Jurisdiction

1. Plaintiff claims Federal Jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution.
2. This Court has subject matter Jurisdiction pursuant to 28 U.S.C. §§ 1331, 1339, 1343 and 1391(b)(a) and (e).

3. The Court has Supplemental Jurisdiction over the Plaintiff's State law Tort Claims under 28 U.S.C. §§ 1337.

Parties

4. The Plaintiff Gary Gillard, was incarcerated at Great meadow Correctional facility (Comstock) during the events described in this complaint which are ongoing.

5. Defendant Michael Rovelli, is a corrections officer employed at Great Meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.

6. Defendant Frank Flores, is a corrections officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.

7. Defendant S. Shattuck, is a correction officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.

8. Defendant K. Foster, is a correction officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.

- a. Defendant M. Rock, is a corrections officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
10. Defendant Jane Doe, is a corrections officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, ComStock, New York 12821 at the time of these events
11. Defendant Alfred Aubin, is a corrections officer employed at Great meadow correctional facility, 11739 State Route 22, Box 51, ComStock, New York 12821 at the time of these events.
12. Defendant Curtis Poifier, is a corrections officer employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, ComStock, New York 12821 at the time of these events
13. Defendant Eric Perez #08-B-1176, inmate at Great meadow Correctional Facility, 11739 State Route 22 Box 51, ComStock, New York 12821 at the time of these events

14. Defendant Nicholas Deluca is a corrections Sergeant employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock New York 12821 at the time of these events.
15. Defendant Colin Fraser is a Corrections Sergeant employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events
16. Defendant Michael Hoy is a Corrections Sergeant employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
17. Defendant Nabozny is a Corrections Sergeant employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821, at the time of these events.
18. Defendant K. H. Smith is a Corrections Lieutenant employed at Great meadow correctional facility, 11739 State Route 22, Box 51, ComStock, New York 12821 at the time of these events.

19. Defendant Peter Besson is a corrections Lieutenant employed at Great Meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
20. Defendant C. F. Kelly is the Deputy of Security employed at Great Meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
21. Defendant P. Heath is the First Deputy Superintendent employed at Great Meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
22. Defendant David Rock is the Superintendent employed at Great Meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
23. Defendant nurse terry is the nurse 2nd floor of hospital unit employed at Great Meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.

- 24 Defendant David Lindemann is a nurse employed at Great meadow correctional facility, 11739 State Route 22, Box 51 Comstock, New York 12821 at the time of these events.
- 25 Defendant Roberta Labrum is a nurse employed at Great meadow correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events
- 26 Defendant J. Ieos is a nurse employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events
- 27 Defendant Fisher Nesmith is a Q.A. employed at Great meadow Correctional facility 11739 State Route 22, Box 51 Comstock New York 12821 at the time of these events
- 28 Defendant Howard Silverberg is a doctor employed at Great Meadow Correctional facility 11739 State Route 22, Box 51 Comstock New York 12821 at the time of these events.
- 29 Defendant Doctor Corandy is a doctor employed at Great meadow correctional facility 11739 State Route 22, Box 51 Comstock New York 12821 at the time of these events

- 30 Defendant Janet Collins is a Nurse Administrator employed at Great meadow Correctional facility 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
- 31 Defendant Brian McCallister is a corrections counselor employed at Great meadow Correctional facility, 11739 State Route 22, Box 51, Comstock, New York 12821 at the time of these events.
- 32 Defendant Richard Roy is Director of Inspector General's office employed by New York State Department of Correctional Services of Albany New York at the time of these events.
- 33 Defendant Hollin is Senior Inspector General, employed by New York State Department of Correctional Services, Albany New York at the time of these events.
- 34 Defendant Brian Fischer is the Commissioner for New York State Department of Correctional Services, Albany New York at the time of these events.
- 35 Defendant New York State Department of Correctional Services is the Controller of All defendant's employed by New York State at the time of these events.

Statement of facts
misuse of force
Denial of medical care

- 36 On December 29, 2008 David Rock, Philip Heath and C.F. Kelly where informed of, conspiracy to commit setup, Vigilante Gang Assault and possible murder by Michael Rovelli; and co-workers correctional officers.
- 37 On December 24 2008 David Patterson, Governor of New York State was sent a letter subject ? Harassment, Retaliation, Reprisal and threats by officer Michael Rovelli, and co-workers.
- 38 On December 26, 2008 letter was filed by Cynthia Diaz Correctional facility Specialist I stating ; The New York State Commission of Corrections is in receipt of your correspondence which was received at our office on December 26, 2008. Please be advised that we have forwarded your complaint to the Superintendent of the Great Meadow Correctional facility.
- 39 December 26, 2008 a letter was filed to Defendants David Rock, Philip Heath for continued Threats by Michael Rovelli;

- 40 On 1/3/09 captain Eastman, & filed this response to the plaintiff's "In part", "your numerous letter(s) of complaint (12/08, 12/09, 12/10,) sent to the Commissioner's office and Superintendent Rock were received. In these complaints you have alleged that you have been the subject of threats, harassment and/or unprofessional conduct by staff. Additional Allegations include denial of meals, and being the subject of a false misbehavior report. You further intimate that your safety is at risk from a perceived threat of being assaulted by staff." In part. This pertained to Michael Rovell.
- 41 On January 6, 2009 the plaintiff filed a letter to Defendant Richard Roy, Subject: continue harassment, Threats of killing my person once I am off KeePlock on January 10, 2009 and Retaliation and Reprisal to complaints. This pertained to Michael Rovell;
- 42 On January 8, 2009 Director of operations Inspector General's office Vernon Fonda stated "we have received your letter dated 1/6/09. we are referring it to the following office/s Identified below, for review and any action they deem appropriate. They are in the best position to handle your concerns. (marked) "facility Superintendent" who is Defendant David Rock. This plaintiff has over 600 pages of letters, Complaints and Grievances all which have been disregarded by David Rock and thus Allowed the Setup and beating 3 times and 1 cutting to take place against the Plaintiff.

43. On February 5, 2009 Defendant Michael Rovell, state quote "even the M.O.'s I sent are beating you up," (referring to the inmate who cut the plaintiff in the hearing room on behalf of Michael Rovell.). Then stated: Gary it's not over yet mother fucker, go tell you rat bitch mother fucker remember its not over" this was in front of all B-Block staff, A-men and Inmates clerks and porters.
44. On February 5, 2009 about 10:30 AM upon going to the visit room defendant Michael Rovell, was in cell Hall area with numerous officer yelling & "go rat Gary you fucking rat, go tell Gary".
45. On February 11, 2009 defendant Michael Rovell, came to plaintiff's cell B-3-34 and stated: "I have the power not you, I brought you back, Its not over yet and the next one will be better you piece of shit."
46. Defendant Michael Rovell, had Defendant M. Rock assist him by using M. Rock to have all fed up porters deny the plaintiff food porters would not feed plaintiff if M. Rock was around. This was done to starve the plaintiff and keep him weak so he could not defend him self against the Set up Contract Hit.

47. On April 25, 2009 the plaintiff was in the big yard the first time out of his cell to the yard in about two months, and the 4 time out of his cell as of April 12, 2009, while the plaintiff was talk to a few inmates two inmates informed the Plaintiff that M Rock told Michael Rovelli; the plaintiff was in the yard and today was a good day to get him.

48 As the plaintiff walked around he notice Michael Rovelli; following and continue to stare with hateful eyes. the plaintiff notice Michael Rovelli; go to the table where Eric Perez and other inmates were, shortly after as the Plaintiff walked by that table area Eric Perez 08-B-1176 Attacked the plaintiff without warning or reason to the knowledge of plaintiff.

49. The plaintiff did attempt to grab and hold Eric Perez who was struggling to get free, the plaintiff then threw Eric Perez over him as he fell backwards trying to get distance between the plaintiff and Perez hoping the officers would stop this Attack, which was sanctioned by the officers and Michael Rovelli. The officer's Michael Rovelli; did respond by forcing his knee onto the head of the plaintiff stating "I told you I would get you, you just got beat by a fagget you can't fight".

50 Defendant Michael Rovell, told Defendant Frank Flores, quote "Take him, we beat up Room #1 I'll be right there."

51 upon entering the Hospital the plaintiff was placed in exam Room II, with toes to the wall as well as face to the wall.

52 Defendant Nicholas Deluca entered the room and stated "Perez should have put 6 inches of steel into you, you piece of shit, but we will finish what he started".

53 Defendant Michael Rovell, entered the room and state "Gary are you crying, you can't fight, you got beat by a faggot". Then Slaming the plaintiff's face into the wall, he then grabbed the plaintiff by the back of the head and Slaming his face into the wall a second time at which time the plaintiff's lights went out and could not see for a few seconds but heard Michael Rovell state his face was bleeding as well as the plaintiff's

54. The Plaintiff was then punched in the face by Nicholas Deluca and beaten to the floor by Frank Flores and S. Shattuck as blood ran over stop from the plaintiff's 2 cuts around the right eye.

55. The Plaintiff tried to cover up into the wall to stop the blows from reaching the face but Michael Rovelli grabbed the hood to the Plaintiff's sweat ~~suit~~ suit and exposed the Plaintiff's face to be hit by Michael Rovelli and Nicholas Deluca, S. Shattuck and Frank Flores as the Plaintiff hands where cuffed behind his back at all times this beating continued for about 15-20 minutes.
56. The Plaintiff was being punched in the face as Michael Rovelli yelled you split my eye, at this time Colin Fraser, Michael Hoy and H. Foster began to assist in the Vigilante Gang Assault by kicking the Plaintiff in the back, head, buttocks, legs spine and shoulders.
57. Defendant Nicholas Deluca and S. Shattuck took over the Vigilante Beating and forced the Plaintiff up onto his feet due to the large amount of blood all over the floor and Plaintiff's clothing. The Plaintiff was taken to Exam Room #3 where Deluca began the second assault, punching the Plaintiff in the face, eyes, nose and jaw while S. Shattuck had the Plaintiff pinned against the sink with his body as he punched the Plaintiff in the ribs and back area.

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Once the Blood was cleaned up in exam Room II, the Plaintiff was returned to exam Room #1 and the third Assault began again by Nicholas Deluce and S. Shattuck by punching the Plaintiff in the face which again landed the Plaintiff on the floor. The Plaintiff was at this point being kicked and stamped in the back, legs and ankle area, at which point Deluce told Shattuck to turn the Plaintiff on his back, the Plaintiff began to yell seeking some help or intervention by staff or medical personal but no one responded as Deluce continued to stamp the ribs and chest area of the Plaintiff kicking the wind out of Plaintiff's lungs as the Plaintiff laid on the floor helpless.

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While the beating was ongoing Fisher Nesmith opened the door to exam Room #1 and asked "are you done yet, if not take your time" then slamming the steel door onto the head of the Plaintiff as he laid on the floor bloody and broken up.

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After the beating was over the Plaintiff was forced to his feet and taken to exam Room #2 where J. Leas did a visual inspection of the Plaintiff's Body documenting some of the injuries not saying anything or asking any question and gave no medical assistance other than wash the blood off the face and head of the Plaintiff the alleged time was 9:45 AM which was false and cover up for beating.

- 61 Defendant Fisher Nesmith Attempted to put sticks into the plaintiff's eye area 2 cuts but the plaintiff refused this Alleged medical Assistance done to ASSISTED in the Assault and deliberately hit me with the steel door on the head as the plaintiff was on the floor.
- 62 The Plaintiff was denied all medical Attention, medical exams, medications for pain, review of broken ribs, broken left hand and broken ear drum.
- 63 Pictures where taken of the plaintiff, injuries with 2 different cameras as the visual inspection and pictures being take where all on video tape the video escorted the Plaintiff to (STU) Special Housing unit by Defendant Foster and Defendant Naborsky.
64. Defendant Nicholas Delmea informed the plaintiff he better not eat the food and stated "we control everything even the inmates who make your food."
- 65 Defendant Brian Mcallister did see the plaintiff 2 days after the beating and was informed and requested to contact the plaintiff's family as it was an emergency contact person and family due to the beating and injuries of which Brian Mcallister stated he would have to check to see if he was allowed to make such calls.

66. The plaintiff's family called the prison and was transferred to Brian Mcallister who refused to give emergence contact family members any information about the condition of the plaintiff and stated the plaintiff can write them, Brian Mcallister never informed the plaintiff that his family called or was concern and or to write to them.
67. The plaintiff received a misbehavior report charging plaintiff with fighting, violent conduct, refusing a Direct Order and Assault on Staff all reports where typed which should someone deliberately typed all Alleged reports to make it appear the plaintiff was the Attacker, the plaintiff was throwing closed fist punches, the Plaintiff resisted officer's direct orders to lay on the ground and the Plaintiff Assaulted Staff; this coverup was done by H. H. Smith, Peter Besson, C.F Kelly, Foster, Flores, Shattuck, Rovelli, Hoy and Deluca on behalf of Michael Rovelli and his Revenge.
68. The plaintiff filed 3 grievances against the assault, conduct of Fisher Nesmith, and conduct by J. Leas all 3 grievances where filed as one complaint and given the number 47-981-09, and to date no response has been given over 3 months confirming the continue coverup by staff.

69 The Plaintiff is concern to the comments of Deluca and the food not to be eaten and being placed in 1 cell which is the first cell to get feed. The Plaintiff was on a hunger strike and refused to eat any meals. On April 30, 2009 P. Heath called the plaintiff out to speak with him and informed the plaintiff he was in error and did not realize the Plaintiff was not the other prisoner who he spoke to about same type of Issues such as the Plaintiff was claiming in past correspondence. P. Heath requested names, information then ordered sealed hospital meal for Plaintiff and medical review by Janet Collins.

70 The Plaintiff was taken to medical unit and seen by Janet Collins who stated the left eardrum had a hole in it but should heal in time, and was given 5 ~~BP~~ IBP for pain, the Plaintiff request exams for injuries to face, neck, back and left hand and request H.I.V test due to cutting in February 4, 2009. Janet Collins stated the pain was from getting old. She was informed the Plaintiff was beaten by staff in exam Room #1 on April 25, 2009 while medical staff stood by and did nothing not even report it to her, exams where denied told to put in for sick call. No relief.

- 71 On April 30, 2009 the plaintiff received 2 Hoster meals for Lunch and Dinner, May 1, 2009 the meals where stopped by someone overriding that order thus the plaintiff went back on hunger strike.
- 72 On my 5, 2009 Defendant David Lindenmann came to the plaintiff's cell threatening the plaintiff and demanding the plaintiff come to the gate or he will have the plaintiff Dragged to the Hospital to be forced feed, a few minutes later 4 officers and Sergeant ordered the plaintiff out of his cell and forced walked the plaintiff to medical in a Hostal threatening manner, The plaintiff was fully in compliance to all order's but staff was still Hostal and abusive.
- 73 The plaintiff was force to see Defendant Howard Silverberg who has continued to file false information into plaintiff's medical fail, refuse to give medical treatment or medication for Illness. Defendant Janet Collin came on the room upon Plaintiff's request Silverberg told her to leave shedid, Silverberg ask was I going to eat the food I stated no he said Good we get to force feed you, you will not enjoy that I assure you and walked out ordering staff to place me in Isolation Room #2.

- 74 Defendant Deluca came to Hospital room #2 and stated he hated the plaintiff and hopes he dies and he can't want to start the force feeding as he will be there two times a day to put sh*t down the Plaintiff's throat.
75. Defendant Heath came to Hospital seeking to resolve the Hunger Strike Issue and state what ever the doctor states will be the outcome if he orders medical meal then you will get it.
- 76 May 7, 2009 Doctor Carandy came to talk to plaintiff with Defendant Terry and Deluca as well as other officers, Carandy stated he would give Diet meal Sealed exravis and medication for pain, Deluca told Carandy that the plaintiff was in SHU and this Diet is not permitted in there Carandy stated if we don't give him the meal it will only start the hunger strike all over again, once the Plaintiff was back at SHU the diet was stopped by interference of Deluca and Terry.
- 77 May 8, 2009 nurse Terry in Retaliation stated the Plaintiff refused exravis and threatened him he would be out of there that day. The Plaintiff is hated because he refuses to accept the Abuse and torture by Staff or eat the poisoned food.

78 The Plaintiff was finally given Sealed Diet meal cereal, milk juice and 1 fruit 3 times a day, but was forced to eat it with a tube of tooth paste due to officers refusing to give a spoon in retaliation.

79 May 11, 2009 the Plaintiff was returned to STU where he was then denied his medical Diet meals. The Plaintiff put in for sick call and nurse stated he would check on it, Plaintiff wrote Heath no response was received. The Plaintiff was told by Inspector General to take the food even if it was not eaten and just get out of this prison, so that's what was done. The Plaintiff lived on water with sugar and Sealed Items that came with different meals starving in fear of being poisoned.

80 May 13, 2009 Plaintiff was interviewed by Defendant Hollis who was allegedly investigating the Setup, Beating and complaints which was not the fact at all.

81. Defendant Jane Doe was At the Hospital the day of the incident and failed to stop, report, or identify any other staff assisting in the Beating and Vigilante Gang assault against the Plaintiff thus is a witness and acting under conspiracy along with all Facility staff to harm the Plaintiff.

82 Defendant New York State Department of Correctional Services, was continuously informed by Grievances, formal Complaints, letters and phone calls, request the Plaintiff be relocated due to his life being in imminent danger by Direct threats of Michael Rovelli, who lobbied to have Staff and Inmates such as Muniz and Perez assist him in committing the assault and attacks to allow officers to then isolate the plaintiff and give him a vigilante beating in retaliation to complaints filed against Michael Rovelli from December 2008 to April 2009.

Statement of facts

Cause of Action II

Conspiracy, Deliberate Indifference,
Retaliation Reprisal and cruel and unusual
punishment.

83 On 10/20/2008 the plaintiff filed a grievance for denial access to sick call which is run at 5:30 AM, grievance # Gm-416982-08, grievance was denied at all levels of appeal stating the plaintiff has not been denied any sick call.

- 84 On march 26, 2009 the plaintiff requested keep lock sick call for 1. refill of Albuterol inhalation, 2. Cough in throat due to bumbis growing in throat area, 3. need medicine D, 4. face cream for rash, 5. IBuprofen and 6. nose spray, The plaintiff was seen march 27, 2008 about 7:30 am and nothing was given to the plaintiff for relief.
- 85 On march 29 2009 a second keep lock medical sick call request was submitted, requesting 1. Aid o-Hiv test due to being cut by inmate, 2. Nose spray, 3. Cough medicine 4. Asthma pump 5 medicine D, and 6. IBP, the plaintiff again was denied all requested medical Attention and a grievance was filed Gm-47-751-09.
- 86 On April 8, 2009 the grievance Gm-47, 751-09 was heard and stated the plaintiff was provided with tylenol and was scheduled to see a physician.
- 87 On April 10, 2009 the plaintiff had a call out to see Defendant Howard Silverberg the doctor and assigned care provider of the Plaintiff, at which time the Plaintiff was informed this was a 5 year physical and had nothing to do with the ongoing concerns of the Plaintiff who was needing medical care for his throat and other issues, due to the Plaintiff not wanting to allow the 5 year alleged physical to continue he was denied all other requested care and

told to leave the hospital area.

88. On April 10, 2009 the plaintiff filed a grievance pertaining to the denial of requested treatment for medical concerns and issues by doctor Howard Silverberg and the continual denial to medical treatment.

89. On April 14, 2009 the plaintiff was seen at sick call by David Lindemann, who stated, because the plaintiff refused the 5 year physical he will not receive any care and more than likely the same thing will happen the next time the plaintiff is seen by doctor Howard Silverberg, "NOTHING" will be given, be he will mark the plaintiff down to see Howard Silverberg anyway. David Lindemann refused to check the throat until the plaintiff requested in concern David Lindemann stated he sees nothing. Over 1 year the plaintiff can't stop hacking all day every day.

90. April 14, 2009 the Grievance was coded no 22 and titled: Refused throat treatment/Aids test, this was returned stating the Plaintiff needed to sign a release, when in fact no release has been required in any other medical complaint, as this complaint was the same conduct denial to be treated and or seen for issues of concern in retaliation to Complaints and Grievances.

- 91 April 14, 2009 a letter was filed to Boardy white Grievance Supervisor requesting information on grievance appeal denied and the medical grievance being filed as this was not a grievance but was responded to by hearing.
- 92 On April 16, 2009 the plaintiff submitted another sick call slip for throat, ear, headaches, Pain in right elbow 5 years left shoulder neck, Lower back, spine and left ankle, and need for Glasses.
- 93 On about April 17, 2009 the plaintiff received a response from the Superintendent's office for grievance GM-47-751-09 denial medication at sick call. It states "A review of the Grievant's medical records indicates that he was seen on March 27, 2009 by facility nursing staff. The nurse noted that he could not make a Good Assessment Due to the condition of the cell and Housing area. The nurse in turn scheduled the Grievant an appointment with the facility Physician so that he could complete a more thorough assessment. The facility Physician evaluated the grievant on April 10, 2009, the grievant's asthma pump was refilled on April 9, 2009 and the grievant also received tylenol for pain management of his symptoms. Based on the information indicated above, this Grievance was Granted in part by the fact that the Grievant received Adequate medical care as well as medication. Additionally, the Grievant was afforded the opportunity to address

all of his medical concern's at his last appointment."

No Tylenol was received and again the plaintiff is run around without any relief to this very day.

94 On April 17, 2009 the plaintiff received a response from allegedly the Nurs Administrator Janet Collins, in response to the letter of April 10, 2009 by the plaintiff, the response stated: "you are scheduled again for the MD- One to increase of III inmates you are assigned by your number so everyone can be seen, unquote"

95 The plaintiff did receive a callout April 24, 2009 to see Howard Silverberg, upon entering the screening area the plaintiff was seen by Roberta Labrum who wanted to take vital sign's. The plaintiff asked was the vitals necessary as they was just taken last week She replied quote " you want to see the Doctor right", The plaintiff was forced to sit 90 minutes before he requested to leave the officer refused to let the plaintiff leave as Howard Silverberg was in a room doing nothing just to make the plaintiff suffer.

96 Defendant Howard Silverberg finally called the plaintiff into a room exam#1 and state "so we are going to look at your throat today." The Plaintiff asked what about the ears, headaches, and Hiv test, the doctor stated only the throat one thing at a time. The plaintiff objected and stated it's been over 1 year and everyone's denied the review of issues and concerns of matters that are not getting checked out ever.

97 Defendant Howard Silverberg looked into the throat of the plaintiff and stated he sees nothing the plaintiff request for him to get the stix and look in the back so Howard Silverberg without glove did take a stix out of the Far then deliberately handled the stix one end to the other and requested the plaintiff to open his mouth, the plaintiff objected to this unhygienic act at which time Howard Silverberg threw the stix to the floor and said Do not come back ever to sick call unnoted.

98. David Rock continuously been informed of the medical needs of the plaintiff and the deliberate black balling by medical department, he has refused to stop, correct or grant the plaintiff any medical relief and continued to file false response to all matters of concern thus causing the plaintiff to have no continued pain day and night without relief.

Conclusion

These named Defendants Acting under the color of law continuously deliberately, Intentionally, knowingly willingly, violate the constitutional rights of the Plaintiff by lobbying to have the plaintiff attacked when the Correctional staff are to ensure all prisoners safety, The defendants acted maliciously and sadistically as they beat the Plaintiff while he was handcuffed behind his back, Breached their duty by unwarranted use of force against the Plaintiff who was restrained in hand cuff behind his back, By Requesting another Inmate to Attack the Plaintiff to justify getting the Plaintiff in a Isolated area to vigilante Gang assault him, filing of false documents, denial medical treatment and medical care, deliberate Indifference to serious medical needs and the total disregard for the letters, phonecalls, Grievances and Complaints that Michael Rovelli, had the Plaintiff cut by inmate on February 4, 2009, Then had all mail Disbursements from being Signed by any officer, Then had officers deny Plaintiff food while keep lock then having Eric Perez Attack Plaintiff as well have on going mail Stolen. This violated the Constitutional Rights of the Plaintiff under the First, Eighth and Fourteenth Amendments and cruel and unusual punishment, and equal protection of law. of the United States Constitution

The basis for "Three-Judge Court"

The plaintiff has numerous case's filed of which the Clerk's of the court, Clerk's of Judges and Clerk's of magistrate judges also the pro-se Attorneys all have assisted the Attorney General's office granting all motions with or without the knowledge of the Judges I do not know, but it is clear every motion by the Attorney General is Granted no matter how wrong or if the information is encorrect the court gives the Attorney General what ever it ask for. This is done regardless of all objections and motions filed by plaintiff prisoners, due to the past conduct of this court Dismissing case's that where interfered with by Correctional staff believed to be the order of Attorney General's staff, and conduct of Clerk's and Judges refusing to take the claim serious has caused this Plaintiff to be cut, Attacked 3 time's over 3 months and Vigilante Gang Assaulted and Beaten by the same officer who has continued to threaten the Plaintiff of which no one did anything to protect the Plaintiff not even the courts.

This case needs Proper supervision to ensure the Attorney General's office and ~~the~~ court Clerk's are not allowed to tamper or file false and or misleading information to protect State employees.

wherefore, Plaintiff request that the court grant the following relief's

A. Issue a declaratory judgment stating that

1. The physical abuse of the Plaintiff by defendant Eric Perez violated the plaintiff's rights under the Eighth Amendment to the United States Constitution and constituted an assault and battery under state law.

2. The physical abuse of the Plaintiff by defendants Michael Rovelli, Nicholas DeLuca, Frank Flores, S. Shattuck, K Foster, Colin Fraser and Michael Hoy violated the Plaintiff's rights under the Eighth Amendment to the United States Constitution and constituted an assault and battery under state law.

B. Issue an injunction ordering defendants David Rock, P. Heath, Brian Fischer and New York State Department of Correctional Services to:

1. Have cameras placed in all exam rooms to ensure the hospital exam rooms are not used for Beating of inmates by correctional staff

2. Have cameras in all Hallways and areas within First floor of Hospital to stop vigilante gang assaults by staff in Hospital area.

3. Ensure the plaintiff is not placed on the property of Great Meadow Correctional Facility for no reason due to Imminent Danger by correctional staff and the using of Inmates to commit violent Criminal acts under Contract and Sanctioned Hits ordered by correctional staff.

4. Order legal correspondence between the plaintiff and Eric Perez 08-B-1176 to ensure Perez has the right to respond to the action filed against him.

5. Order Michael Rovelli, Nicholas DeLuca, S. Shattuck, and M. Roch be fired from New York State Department of Correctional Services and all Civil Servant jobs for conspiracy, sanctioning Contract Hits on inmates and allowing Inmate to Commit Criminal Assault and battery.

6. Order a Federal Investigation into the denial of medical care and use of medical facility unit to beat, assault and injury inmates with the assistance of medical personnel and staffing.

7. Order for Class Action of All inmates from April 25 2006 to April 25, 2009 whom have been a victim by Assault, beating, cutting, for grievance filed or complaint filed and Retaliation whom where within Great Meadow to come forward to be heard.

C. Award compensatory damages in the following amount:

1. 1,000,000,00 One million dollars against Eric Perez
08-B-1176

2. 500,000,000,00 Five hundred million Dollars jointly
and severally against all named defendants other than
Eric Perez 08-B-1176

D. Award Punitive Damage in the following amount:

1. 100,000,00 One Hundred thousand dollars against
each named defendant

Statement of verification

I have read the above complaint and it is correct to the
best of my knowledge.

Gary Gillard

Three Judge Court Requested

Dated: Franklin New York

July 11, 2009

Gary Gillard
Gary Gillard 01-A-1613
upstate Corr. fac.

P.O. Box 2001

Malone, New York

12953